

**UNITED STATES TAX COURT**  
WASHINGTON, DC 20217

HICHEM TOUNSI & RITA TOUNSI,	)	<b>SD</b>
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 28674-12S.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

On June 27, 2013, respondent filed a Motion to Dismiss for Lack of Jurisdiction on the ground the petition was not filed within the 90-day period prescribed in I.R.C. section 6213(a). On July 25, 2013, petitioner Rita Tounsi filed an objection to respondent's motion.

On August 13, 2012, respondent issued to petitioners a joint notice of deficiency for the taxable year 2010. The record shows that Mrs. Tounsi was outside the United States attending to a family matter in Costa Rica from June 8, 2012, until September 6, 2012, and she received the notice of deficiency upon her return. Petitioners filed a joint petition for redetermination with the Court on November 26, 2012.

I.R.C. section 6213(a) provides that a petition for redetermination of a deficiency is timely if it is filed within 90 days (90-day rule) or, if the notice is "addressed to a person outside the United States", 150 days (150-day rule) from the mailing of the notice of deficiency. The 90th day from the mailing of the notice of deficiency in this case was November 13, 2012. The 150th day was January 10, 2013. Petitioners filed their petition on November 26, 2012, 105 days after the notice of deficiency was mailed.

We have previously held that the 150-day rule is intended to provide relief to United States residents temporarily absent from the country, where the absence may result in delayed receipt of the notice of deficiency. See Levy v.

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Commissioner, 76 T.C. 228, 231 (1981); Lewy v. Commissioner, 68 T.C. 779, 783-784 (1977); see also Smith v. Commissioner, 140 T.C. 48, 54 (2013).

Mrs. Tounsi was outside the United States in Costa Rica at the time the notice of deficiency was mailed, and she experienced a delay in receipt of the notice.

Although we are uncertain as to Mr. Tounsi's whereabouts at the time the notice of deficiency was mailed, where a joint notice of deficiency is sent to a husband and wife, and either of them is outside the United States, the 150-day rule applies to both. Camous v. Commissioner, 67 T.C. 721, 734-736 (1977); Brunner v. Commissioner, T.C. Memo. 1983-525. Under the circumstances, we conclude that the petition in this case was timely filed.

Upon due consideration and for cause, it is

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction filed June 27, 2013, is denied.

**(Signed) Daniel A. Guy, Jr.**  
**Special Trial Judge**

Dated: Washington, D.C.  
July 31, 2013